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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/782,535	02/18/2004	Alan Cohn	LIUI122264	3233
26389	7590	10/23/2006		
CHRISTENSEN, O'CONNOR, JOHNSON, KINDNESS, PLLC 1420 FIFTH AVENUE SUITE 2800 SEATTLE, WA 98101-2347			EXAMINER KEENAN, JAMES W	
			ART UNIT 3652	PAPER NUMBER

DATE MAILED: 10/23/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/782,535

Applicant(s)

COHN ET AL.

Examiner

James Keenan

Art Unit

3652

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 25 July 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-19 and 36-39 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-19 and 36-39 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 18 February 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>9/6/05</u> . | 6) <input type="checkbox"/> Other: _____ |

1. Applicant's election without traverse of Group I, claims 1-19 and 36-39, in the reply filed on 7/25/06 is acknowledged. Cancellation of nonelected claims 20-35 is acknowledged.

2. The drawings are objected to because in figure 15B, the lead line for element numeral 278A is directed toward the wrong element (compare with figures 15A, C, and D). Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Art Unit: 3652

3. The lengthy specification has not been checked to the extent necessary to determine the presence of all possible minor errors. Applicant's cooperation is requested in correcting any errors of which applicant may become aware in the specification.

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claims 1-17 and 36-39 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 1, line 16, "said handrail" lacks clear antecedent basis (note in line 15 the recitation of "at least one handrail").

This also applies to dependent claims 2-4 and 7.

Also in claim 7, lines 4 and 5, "said other end" and "the other end", respectively, lack antecedent basis.

In claim 36, seventh-to-last line, "said platform structure" lacks clear antecedent basis.

In claim 39, last three lines, it is not clear if the recitation "wherein either of said ... positions" means that the platform structure must be capable of moving between the stowed and deployed positions regardless of whether the outboard barrier is in the ramp or barrier position, or simply one or the other of these positions.

Art Unit: 3652

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

7. Claim 19 is rejected under 35 U.S.C. 102(b) as being anticipated by Lucas (WO 92/19422).

Lucas shows a wheelchair lift mounted to a vehicle adjacent a doorway thereof, including lift platform 12 having inboard and outboard edges, an inboard barrier 41 pivotally connected to the platform and movable between a lowered ramp position (fig. 2) where, at least when adjusted to the most extreme inboard position (see fig. 6) it would “extend outwardly from” the platform surface, as broadly claimed, and a raised safety barrier position (figs. 1 and 6) extending upwardly from the platform surface, and a lever 39 linked to the barrier to effect movement thereof between the ramp and barrier positions, the lever including a handle portion 40 graspable by an operator for manual articulation of the barrier (see page 6, last four lines through page 7, first four lines).

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claim 39 is rejected under 35 U.S.C. 102(b) as anticipated by Fretwell et al (US 5,556,250) or, in the alternative, under 35 U.S.C. 103(a) as obvious over Fretwell et al in view of Lucas.

Fretwell et al show a wheelchair lift essentially as claimed, including mounting enclosure M attached to a vehicle, platform structure P movable within the enclosure between stowed and deployed positions (col. 3, lines 36-47), handrails H pivotally mounted to the platform structure for movement between extended and retracted positions (fig. 2), inboard barrier B pivotally connected to the inboard end of the platform and movable between bridge (fig. 1 phantom), barrier (fig. 1 solid), and stowed (fig. 2) positions, and outboard barrier R pivotally connected to the outboard end of the platform for movement between ramp (fig. 1 solid) and barrier (fig. 1 phantom) positions.

As noted above regarding the 112/2nd paragraph rejection, it is not clear if the platform structure must be capable of moving between the stowed and deployed positions regardless of whether the outboard barrier is in the ramp or barrier position, or simply one or the other of these positions.

If the latter, then Fretwell et al anticipates the claim because the platform structure is capable of moving between the stowed and deployed positions when the outboard barrier is in the barrier position.

However, if the former, then Fretwell et al does not anticipate because the platform structure is not capable of moving between the stowed and deployed positions when the outboard barrier is in the ramp position, since the outboard barrier

Art Unit: 3652

automatically deploys to the barrier position when the platform structure is not on the ground.

The outboard barrier of Lucas, however, being manually operated, "allows the platform to move between the ... stowed and ... deployed positions", as broadly claimed, regardless of whether the barrier is in the ramp or barrier position.

It would have been obvious for one of ordinary skill in the art at the time of the invention to have modified Fretwell et al such that the platform structure was capable of moving between the stowed and deployed positions regardless of whether the outboard barrier was in the ramp or barrier position, as shown by Lucas, as this would merely be a simpler yet equally effective barrier for the same purpose and in the same environment, the use of which neither require undue experimentation nor produce unexpected results.

10. Claim 18 is rejected under 35 U.S.C. 103(a) as being unpatentable over Vartanian (US 6,309,170, cited by applicant) in view of Smalley et al (US 4,718,812).

Vartanian shows a wheelchair lift essentially as claimed, including platform (deck) 32, handrails 82 pivotally connected to the deck for movement between an upwardly extended position (fig. 1) and a retracted position in which they extend parallel to the sides of the deck (col. 7, lines 38-49 and col. 18, lines 5-17), and a coupling linking movement of the handrails (not explicitly shown but disclosed in the above noted passages), but does not show a locking assembly for locking the handrails in the extended position.

Smalley et al show a similar wheelchair lift wherein handrail 58 is locked in its extended position by "locking assembly" 63, 64 (col. 3, lines 23-68, esp. 44-47).

It would have been obvious for one of ordinary skill in the art at the time of the invention to have modified the apparatus of Vartanian with a locking assembly to lock the handrails in their extended position, as shown by Smalley et al, as this would provide a greater degree of safety and security.

11. Claims 36-38 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cohn (US 5,865,593) in view of Vartanian.

Cohn shows the invention essentially as claimed, including a mounting structure 22 to which carriage 24 is linearly movable relative thereto, a platform including lift deck 26, handrails 250, inboard barrier 52 movable between bridge, barrier, and stowable positions (col. 7, lines 14-23), and outboard barrier 50 movable between ramp and barrier positions (col. 7, lines 11-14), linkage members 28, 30 pivotally connecting the platform to the carriage, platform drive assembly 46, 48 for effecting reciprocal movement of the platform between raised and lowered positions, and an "electrical disabler", as broadly claimed, which disables the platform drive assembly when at least one of the barriers has not attained its barrier position (not explicitly shown but considered inherent in view of the control system and operation disclosed in cols. 8-11). For example, the platform is only raised or lowered when the barriers are in their barrier positions. Since sensors are provided to sense the position of the barriers, it is considered inherent that the control system would include a disabler to prevent

Art Unit: 3652

movement of the platform if the sensed position of the barriers is other than the correct barrier position. However, even if this is not inherent, it would have been obvious for one of ordinary skill in the art at the time of the invention to have modified Cohn to include a disabler, as the examiner takes Official notice that preventing movement of a lift platform when a barrier is not in its proper position is a generally well known safety feature in the art of wheelchair lifts.

The handrails of Cohn are not pivotally mounted for movement between extended and retracted positions.

As noted above, this feature is shown by Vartanian.

It would have been obvious for one of ordinary skill in the art at the time of the invention to have modified the wheelchair lift of Cohn by utilizing pivotally mounted handrails, as shown by Vartanian, as this is a well known feature in the art for moving the handrails out of the way when the lift platform is in its stowed position, thereby enabling easier access through the doorway for non wheelchair-bound passengers.

12. Claims 1, 6, 8, 9, and 14-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cohn in view of Vartanian and Smalley et al.

In addition to the features previously noted, Cohn also shows a drive assembly 32 for reciprocal movement of the carriage between stowed and deployed positions. As noted above, the utilization of pivoting handrails is obvious in view of Vartanian.

However, even as modified, the handrails of Cohn are not automatically locked in the extended position upon movement thereto.

As also noted above, this feature is shown by Smalley et al.

It would have been obvious for one of ordinary skill in the art at the time of the invention to have modified the apparatus of Cohn to include pivoting handrails which automatically lock in the extended position upon movement thereto, as collectively taught by Vartanian and Smalley et al, for improved convenience and safety.

Re claim 6, the handrails of the modified apparatus of Cohn would be "linked", as broadly claimed.

Re claim 8, it would have been obvious to disable the drive assemblies based on the handrail position, in a manner similar to that of the barrier position, as set out above, as a generally well known safety feature.

Re claims 9, 14, and 17, the inboard and outboard barriers of Cohn have been previously described.

Re claims 15 and 16, note interlock mechanism 440 of Cohn.

13. Claims 2-5 and 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cohn in view of Vartanian and Smalley et al, as applied to claim 1 above, and further in view of Morris (US 2003/0213653).

Cohn as modified does not show a handrail release lever.

Morris shows a wheelchair lift wherein handrails 124 are deployed upon movement of the lift to an operating position, and wherein the handrails are automatically locked by a locking mechanism described in paragraphs 52-56, including release lever 188.

It would have been obvious for one of ordinary skill in the art at the time of the invention to have further modified Cohn by including a release lever to unlock the handrails, as shown by Morris, for improved safety and convenience.

Re claims 3-5 and 7, Morris shows the lock assembly to include at least surfaces 228 and 250, respectively considered a biased "latch" and "latch engagement member", as broadly claimed, as well as "linkage" 184, 186.

14. Claims 10-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cohn in view of Vartanian and Smalley et al, as applied to claims 1 and 9 above, and further in view of Lucas.

The modified apparatus of Cohn does not have a manually operated lever for manipulating the inboard barrier.

As noted above, Lucas shows this feature.

It would have been obvious for one of ordinary skill in the art at the time of the invention to have further modified Cohn by adding a handle for manually manipulating the inboard barrier, as shown by Lucas, for added safety and convenience.

Re claims 11-13, the inboard barrier of Cohn can be locked in the barrier position, in a manner similar to that of the outer barrier.


15. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Art Unit: 3652

16. Any inquiry concerning this communication or earlier communications from the examiner should be directed to James Keenan whose telephone number is 571-272-6925. The examiner can normally be reached on (schedule varies).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eileen Lillis can be reached on 571-272-6928. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


James Keenan
Primary Examiner
Art Unit 3652

jwk
10/16/06